

Introduced by Senator Wiggins

February 23, 2007

An act to amend Section 8026 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 813, as introduced, Wiggins. Death of a candidate: election cancellation.

Existing law requires that, notwithstanding any other provision of law, except for an election for a judicial office, an election may not be conducted and no votes cast for the office be counted, and if counted the votes are null and void, if an incumbent is a candidate for a nonpartisan statewide, countywide, or citywide office, or for a nonpartisan office that is elected by division, area, or district, which he or she currently holds at an election at which only one other candidate, excluding any write-in candidates, has qualified to have his or her name placed on the ballot for that office, and either the challenger or the incumbent dies after the hour of 12:01 a.m. of the 68th day before the election.

Existing law also requires that a special election be called and held when the death of the challenger or the incumbent occurs as specified above.

This bill would specify that these provisions apply to a primary election and not to a run-off election.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8026 of the Elections Code is amended
2 to read:

3 8026. (a) Notwithstanding any other provision of law, except
4 for an election for a judicial office, an election shall not be
5 conducted and no votes cast for the office shall be counted, and if
6 counted the votes shall be null and void, if an incumbent is a
7 candidate for a nonpartisan statewide, countywide, or citywide
8 office, or for a nonpartisan office that is elected by division, area,
9 or district, which he or she currently holds at an election at which
10 only one other candidate, excluding any write-in candidates, has
11 qualified to have his or her name placed on the ballot for that office,
12 and either the challenger or the incumbent dies after the hour of
13 12:01 a.m. of the 68th day before the election.

14 (b) A special election shall be called and held when the death
15 of the challenger or the incumbent occurs within the period set in
16 subdivision (a). The special election shall be called by the
17 appropriate governing body within 14 days after the death of the
18 incumbent or challenger. The special election shall be held no later
19 than 88 days after the proclamation or resolution calling *for* the
20 election. Candidates at the special election shall be nominated in
21 accordance with this part, except that forms for securing signatures
22 in lieu of a filing fee need not be made available until 15 days
23 before the first day for circulating nomination papers,
24 in-lieu-filing-fee petitions shall be filed at least seven days prior
25 to the closing of the nomination period, nomination papers shall
26 be delivered for filing to the elections official not less than 68 days
27 and not more than 87 days before the special election, any
28 candidate's statement shall be filed with the clerk no later than the
29 68th day before the special election, and the Secretary of State
30 shall conduct the randomized alphabet drawing under procedures
31 similar to Sections 13112 and 13113 on the 67th day before the
32 special election. Any candidate who paid a filing fee in connection
33 with the previously scheduled election shall not be required to pay
34 any additional filing fee, but shall be required to file new
35 nomination papers.

36 (c) The Secretary of State or elections official shall take
37 appropriate action to ensure that voters do not erroneously vote in
38 a canceled election.

1 *(d) This section applies to a primary election. If a candidate in*
2 *a run-off election dies under the circumstances prescribed in*
3 *subdivision (a), Section 15402 applies to govern the results of that*
4 *election.*

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